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我国房地产价格法律调控问题研究

Research on the Nature of the Tenure of China's

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内 容 摘 要

随着住房体制改革的深入,近年来我国房地产业取得了超常的发展,然而,房价的暴涨已日益成为影响国民经济健康发展和社会生活的突出问题,引起了全社会的广泛关注。针对我国的房地产市场价格现状,笔者主要运用经济分析、历史分析、规范分析和实证分析的方法,提出应当尽快构建一套科学合理的房地产价格法律调控制度,切实保障房地产价格与经济发展水平相适应,以此来保障我国房地产产业的持续、协调、健康地发展。

本文从经济学角度入手,对我国房地产价格的基本理论进行了分析,主要目的在于了解房地产价格所具有的基本经济特性和不同于一般商品价格的特殊性,并通过运用经济学理论对房地产价格构成因素进行成本和供求分析,为整篇文章做好经济性的铺垫;在此基础上通过数据整理归纳和实证研究,概括我国房地产价格的现状及其原因,从而得出我国房地产价格调控的必要性;接下来通过对我国现有的几种房地产价格调控手段的对比分析,得出法律调控具有必要性;再通过对我国已有的房地产价格法律(政策)制度的评述,指出我国现有房地产价格调控制度中存在的问题,为下文提出完善建议埋下伏笔;最后笔者结合经济学制度变迁和公共选择理论,在借鉴国外住房法律保障制度先进经验的基础上,结合我国现有国情,提出了构建我国房地产价格法律调控体系的设想,以期对我国房地产价格回归理性发展做出贡献,为有关部门制定相关法律和政策提供借鉴。

关键词: 房地产 ; 价格问题; 法律调控

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ABSTRACT

China's State-owned Housing is a historic product which is companied with the development of the planned economy to the market economy in China. Nowadays, it is a vital issue concerned about the policy of the national welfare and the people's livelihood, and the protection of the state-owned property. Today, the state-owned housing is one of the important parts of the urban housing welfare system after the historical change of the public property to the state-owned housing.

Though without the single and unified legal stipulation, combined with the state and the local government documents and the legal documents in the different durations, it shows that the tenure of the state-owned housing has the different nature in the different times. It cannot be taken as the same standard. To study the tenure of the state-owned housing can help to distinguish the legal position of the state-owned housing, the rights and duty of the user of the state-owned house, and the feature of the rental relationships of the state-owned house. It can also help to provide the legal support of the theory and practice for the deal of the state-owned house, the dispute solution of the tenure of the state-owned house after the reform of state-owned housing since 1988, and bring the welfare function of the state-owned housing into play under the new housing policy.

The research method of this essay includes the chronical method, the normative analysis, and the empirical analysis. The chronical method is to analyze the legal position and nature of the state-owned house in the different time. Then it is introduced to the conclusion that to consider the different tenure and the renting relationship of the state-owned house, it has to take the legal norms and the government policies at the time into consideration. It means that when analyzing the nature of the state-owned house, a new angle is the temporal analysis. The normative analysis shows that according to the concrete norms of the state and the local government during the 1980's to 2010's, the nature and the feature of the state-owned house in the different decades to be explored. The empirical analysis is to take the use and management of the

state-owned house in Zhuhai city of Guangdong province as an example to analyze their legal attributes. So the theory of the state-owned house can close to the actual. It can also provide indication for the reforms and the development of the state-owned housing system.

The research idea of this essay is as follows: in the first place, it compares and analyzes the conception of the state-owned house, and then studies the different thoughts about the tenure of the state-owned house in the existing articles and materials. Secondly, it analyzes the legal nature of the tenure and the renting relationship of the state-owned house in the different times. Finally, it gives opinions about the tenure of the state-owned housing under the current policy.

Keywords: The state-owned house; The tenure of the state-owned house; Legal nature

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